

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of Show Cause ) DOCKET NO. 940032-WU  
Proceedings Against DEMETREE ) ORDER NO. PSC-94-0509-FOF-WU  
INDUSTRIES, INC. in Citrus ) ISSUED: April 27, 1994  
County for Failure to File 1991 )  
Annual Report )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING  
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Demetree Industries, Inc. (Demetree or utility) is a Class C utility, serving 46 water customers in Citrus County. Demetree was granted Water Certificate No. 396-W by the Commission in Order No. PSC-92-0025-FOF-WU, issued March 10, 1992, which approved a transfer of certificate from Utility Systems, Inc., to Demetree. Demetree has not timely filed its 1991 annual report, as required by Rule 25-30.110, Florida Administrative Code.

Rule 25-30.110, Florida Administrative Code, requires utilities subject to the Commission's jurisdiction as of December 31 each year to file an annual report on or before March 31 of the following year. Requests for extension must be in writing and must be filed before March 31. One extension of thirty days is automatically granted. Longer extensions may be granted upon showing of good cause. Incomplete or incorrect reports are considered delinquent, with a thirty-day grace period in which to supply the missing information.

Pursuant to Rule 25-30.110(6)(c), Florida Administrative Code, any utility that fails to file a timely, complete annual report is subject to penalties, absent demonstration of good cause for noncompliance. The penalty set out in Rule 25-30.110(7), Florida Administrative Code, for Class C utilities is \$3 per day. The penalty calculation is based on the number of days elapsed since March 31, or the approved extension date and the actual date of filing. The date of filing is included in computing the number of

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days elapsed. The Commission may impose lesser or greater penalties, pursuant to Rule 25-30.110(6)(c), Florida Administrative Code.

The utility did not request an extension in which to file the 1991 annual report. A certified letter was sent to the utility on May 7, 1992, notifying the utility that the 1991 report still had not been received.

As of the date of our vote at the Agenda Conference held on April 5, 1994, the utility's 1991 report was 735 days late and the appropriate penalty, computed according to Rule 25-30.110, Florida Administrative Code, was \$2,205.

In consideration of the foregoing, it appears that Demetree has failed to comply with Rule 25-30.110, Florida Administrative Code. Therefore, we hereby order Demetree to show cause, in writing, within twenty days why it should not be fined \$2,205 for its failure to file its 1991 annual report.

If the utility fails to respond to the show cause within twenty days of the issuance of this Order, the penalty of \$2,205 shall be imposed without further action by this Commission. The failure of the utility to file a timely response to the show cause order shall both constitute an admission of the facts alleged and a waiver of right to a hearing.

If Demetree fails to respond to reasonable collection efforts by this Commission, we deem the fines to be uncollectible and hereby authorize referral of this matter to the Comptroller's Office for further collection efforts based on this Commission's finding that, under the aforesaid circumstances, further collection efforts would not be cost effective. Reasonable collection efforts shall consist of two certified letters requesting payment.

If, however, the utility responds to the show cause by remitting the \$2,205 penalty, no further action is required and this docket shall be closed administratively.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Demetree Industries, Inc., in Citrus County, shall show cause, in writing, within twenty days why it should not be fined \$2,205 for failure to file its 1991 annual report as required by Rule 25-30.110, Florida Administrative Code. It is further

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ORDERED that Demetree Industries, Inc.'s, written response must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida, 32399-0870, by the close of business on May 17, 1994. It is further

ORDERED that Demetree Industries Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Demetree Industries Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance and assessment of penalty by this Commission, as required under Rule 25-30.110(6)(c), Florida Administrative Code. It is further

ORDERED that a failure to file a timely response to this show cause order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that, in the event that Demetree Industries, Inc., files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that if the utility fails to timely respond to the show cause, the penalty of \$2,205 shall be imposed without further action by this Commission. It is further

ORDERED that if reasonable collection efforts are unsuccessful, the collection of the fines shall be forwarded to the Comptroller's office and the docket shall be closed. It is further

ORDERED that if the utility responds to the show cause by remitting the penalty, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 27th day of April, 1994.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay Flynn  
Chief, Bureau of Records

( S E A L )

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